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**IN THE  
COURT OF APPEALS OF INDIANA**

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D.C.,	)	
	)	
Appellant-Defendant,	)	
	)	
vs.	)	No. 71A03-0706-JV-252
	)	
STATE OF INDIANA,	)	
	)	
Appellee-Plaintiff.	)	

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APPEAL FROM THE ST. JOSEPH PROBATE COURT  
The Honorable Harold E. Brueseke, Magistrate  
The Honorable Peter J. Nemeth, Judge  
Cause No. 71J01-0701-JD-49

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**September 27, 2007**

**MEMORANDUM DECISION – NOT FOR PUBLICATION**

**RILEY, Judge**

## STATEMENT OF THE CASE

Appellant-Respondent, D.C., appeals the juvenile court's decision to commit her to the Department of Correction based on its adjudication of her as a delinquent.

We affirm.

## ISSUE

D.C. raises one issue on appeal, which we restate as: Whether the juvenile court abused its discretion in ordering her to be committed to the Department of Correction.

## FACTS AND PROCEDURAL HISTORY

On October 16, 2005, while a delinquent at the St. Joseph County Juvenile Justice Center (the Center), D.C. gave another delinquent "toilet paper to stuff her toilet." (Transcript, January 31, 2007, p. 15). A third female delinquent, L.P., witnessed D.C. giving the toilet paper to the other offender. L.P. told the Center's authorities what D.C. had done. Upon learning L.P. had told authorities what occurred, D.C. struck L.P. in the face and kicked her multiple times.

On January 17, 2007, the State filed a delinquency petition alleging D.C. committed battery, a Class A misdemeanor if committed by an adult, I.C. § 35-42-2-1. On January 31, 2007, the juvenile court held an initial hearing and D.C. admitted to the allegation in the petition. On February 9, 2007, the juvenile court held a dispositional hearing, at which the probation department recommended D.C. be committed to the Indiana Department of Correction. The juvenile court took this recommendation under advisement and ordered D.C. to comply with all the terms of her probation, write a personal apology to L.P., and complete

fifty hours of community service. On March 23, 2007, the juvenile court held a second dispositional hearing where the probation department informed the court that D.C. had completed her community service hours, tested negative on all random drug screens, and written a letter of apology to the victim. However, the probation department also noted that D.C. had several unexcused absences from school between January 30 and March 22, 2007. At the conclusion of this hearing, the juvenile court ordered D.C. committed to the Indiana Department of Correction to complete a community transition program.

D.C. now appeals. Additional facts will be provided as necessary.

### DISCUSSION AND DECISION

D.C. disputes the juvenile court's decision to commit her to the Department of Correction (DOC). Specifically, D.C. argues the juvenile court's disposition does not comply with the statutory considerations of the welfare of the child, the safety of the community, and the policy favoring the least restrictive setting for the rehabilitation of juveniles.

Determining the disposition of a juvenile is within the sound discretion of the juvenile court "subject to the statutory considerations of the welfare of the child, the community's safety, and the Indiana Code's policy of favoring the least harsh disposition." *E.H. v. State*, 764 N.E.2d 681, 684 (Ind. Ct. App. 2002), *reh'g denied, trans. denied*. A juvenile disposition will not be reversed absent a showing of an abuse of discretion. *Id.* A juvenile court abuses its discretion if its action is clearly erroneous and against the logic and effect of the facts and circumstances before the court, or the reasonable, probable, and actual

deductions to be drawn therefrom. *Id.*.

We have often reiterated our supreme court's explanation of the nature of the juvenile justice system.

The nature of the juvenile process is rehabilitation and aid to the juvenile to direct his behavior so that he will not later become a criminal. For this reason the statutory scheme of dealing with minors is vastly different than that directed to an adult who commits a crime. Juvenile judges have a variety of placement choices for juveniles who have delinquency problems, ranging from a private home in the community, a licensed foster home, a local juvenile detention center, to State institutions such as the Indiana Boys School and Indiana Girls School. None of these commitments are considered sentences. A child can become a juvenile delinquent by committing acts that would not be a violation of the law if committed by an adult, such as incorrigibility, refusal to attend public school, and running away from home. A child can also become a delinquent by committing acts that would be a crime if committed by an adult. In the juvenile area, no distinction is made between these two categories. When a juvenile is found to be delinquent, a program is attempted to deter him from going further in that direction in the hope that he can straighten out his life before the stigma of criminal conviction and the resultant determinant to society is realized.

*B.K.C. v. State*, 781 N.E.2d 1157, 1170-71 (Ind. Ct. App. 2003) (quoting *Jordan v. State*, 512 N.E.2d 407, 408-09 (Ind. 1987), *reh'g denied*).

I.C. § 31-37-18-6 provides:

If consistent with the safety of the community and the best interest of the child, the juvenile court shall enter a dispositional decree that:

(1) is:

- (A) in the least restrictive (most family like) and most appropriate setting available; and
- (B) close to the parents' home, consistent with the best interest and special needs of the child;

(2) least interferes with family autonomy;

(3) is least disruptive of family life;

- (4) imposes the least restraint on the freedom of the child and the child's parent, guardian, or custodian; and
- (5) provides a reasonable opportunity for participation by the child's parent guardian or custodian.

In our review of the instant case, we cannot agree with D.C. that the juvenile court abused its discretion in ordering her to complete a community transition program in the DOC. The record indicates the juvenile court gave D.C. an opportunity to be home and succeed in the community, while obeying the terms of her probation. However, the evidence shows that D.C. did not comply with the terms of her probation, as she did not submit the necessary paper work to verify completion of her community service hours. In addition, she failed to abide by the compulsory school attendance laws and had at least one failing grade in her classes. At the first dispositional hearing, the juvenile court stated to D.C., “[The] [p]ressure is on. Any problems at school, any problems at home, in the community, positive drug test result, etcetera, I’ll make a decision real quick.” (Tr., February 9, 2007, p. 10). Therefore, the juvenile court warned D.C. it would follow the probation department’s advisement that she be committed to the DOC if she demonstrated any problems at school. Furthermore, the record reveals D.C. has a lengthy history with the juvenile criminal system, and previously had ten referrals to the probation department for attempting to escape, battery, theft, destruction of property, inappropriate sexual behavior, fighting, and possession of contraband. Under these circumstances, we believe the juvenile court ordered the disposition in the best interest of D.C. and the safety of the community.

### CONCLUSION

Based on the foregoing, we conclude the juvenile court did not abuse its discretion in ordering D.C. to complete a community transition program in the Department of Correction.

Affirmed.

SHARPNACK, J., and FRIEDLANDER, J., concur.